

Chapter 71.

Stipulated Premium Insurers.

Sec.

- 23-71-101. Definition.
- 23-71-102. Scope.
- 23-71-103. Other provisions applicable.
- 23-71-104. Incorporation, reincorporation, or formation prohibited.
- 23-71-105. Reserves and nonforfeiture provisions required.
- 23-71-106. Use of "stipulated premium" prohibited - Exception.
- 23-71-107. Articles of incorporation and capital stock.
- 23-71-108. New insurers.
- 23-71-109. Insuring powers.
- 23-71-110. Guaranty fund deposit.
- 23-71-111. Policies - Liability.
- 23-71-112. Benefits not subject to attachment.
- 23-71-113. Insolvency.
- 23-71-114. Personal liability.
- 23-71-115. Merger, consolidation, or adoption of plan of exchange.
- 23-71-116. Conversion to legal reserve insurer.

23-71-101. Definition.

As used in the Arkansas Insurance Code, unless the context otherwise requires, a "stipulated premium plan insurer" is one issuing policies or certificates promising money or other benefits to a member or policyholder upon his or her disability or, upon his or her decease, to his or her legal representatives or beneficiaries designated by him or her, which money or benefit is derived from stipulated premiums collected in advance from those members or policyholders and from interest and other accumulations, and which insurer was not required, prior to January 1, 1960, to set aside a fixed policy reserve such as is required of legal reserve insurers.

23-71-102. Scope.

- (a) This chapter applies only to stipulated premium plan insurers.
- (b) No provisions of the Arkansas Insurance Code shall apply to stipulated premium plan insurers unless contained or referred to in this chapter.

23-71-103. Other provisions applicable.

In addition to the provisions contained in this chapter, other chapters and provisions of the Arkansas Insurance Code shall apply to stipulated premium plan insurers, to the extent so applicable, as follows:

- (1) Sections 23-60-101 - 23-60-108 and 23-60-110, scope of code;
- (2) Sections 23-61-101 et seq., 23-61-201 et seq., and 23-61-301 et seq., the Insurance Commissioner;

(3) Sections 23-63-102 - 23-63-104, 23-63-201 - 23-63-216, 23-63-301, 23-63-302, 23-63-303, and 23-63-304, authorization of insurers and general requirements, with the exception of the following sections:

- (A) Section 23-63-205, capital funds required;
- (B) Section 23-63-207, special surplus requirement; and
- (C) Section 23-63-206, bond or deposit requirement;
- (4) Sections 23-60-102, 23-61-401, 23-61-402, 26-57-601 - 26-57-605, 26-57-607, 26-57-608, and 26-57-610, fees and taxes;
- (5) Provisions of § 23-63-601 et seq. as to assets and valuation of assets;
- (6) Sections 23-63-801 - 23-63-835, investments;
- (7) Section 23-64-101 et seq., agents;
- (8) Section 23-65-101 et seq., unauthorized insurers;
- (9) Sections 23-66-201 - 23-66-214, 23-66-301 - 23-66-306, 23-66-308 - 23-66-311, 23-66-313, and 23-66-314, trade practices and frauds;
- (10) Sections 23-79-101 - 23-79-107, 23-79-109 - 23-79-128, 23-79-131 - 23-79-134, and 23-79-202 - 23-79-210, the insurance contract, except §§ 23-79-131 - 23-79-134, exemption of proceeds;
- (11) Sections 23-85-101 - 23-85-131, accident and health insurance policies;
- (12) The following provisions of §§ 23-69-101 - 23-69-103, 23-69-105 - 23-69-141, 23-69-143, and 23-69-149 - 23-69-156, organization and corporate procedures of domestic stock and mutual insurers:
 - (A) Section 23-69-103, inapplicability of general corporation statutes;
 - (B) Section 23-69-107, amendment of articles of incorporation;
 - (C) Section 23-69-111, corporate powers in general;
 - (D) Section 23-69-111, contributions authorized;
 - (E) Section 23-69-120, meetings of stockholders or members;
 - (F) Section 23-69-121, stockholders' voting rights;
 - (G) Section 23-69-122, proxies;
 - (H) Section 23-69-123, corrupt practices - penalty;
 - (I) Section 23-69-110, vacancies;
 - (J) Section 23-69-127, consideration for stock;
 - (K) Section 23-69-128, transfer of stock;
 - (L) Section 23-69-129, dividends to stockholders;
 - (M) Section 23-69-131, illegal dividends - penalty;
 - (N) Section 23-69-108, officers;
 - (O) Section 23-69-133, stockholders' liability;
 - (P) Section 23-69-109, prohibited pecuniary interest of officials;
 - (Q) Section 23-69-134, home office and records; penalty for unlawful removal of records;
 - (R) Section 23-69-135, vouchers for expenditures;
 - (S) Section 23-69-136, situs of personal property for taxation;
 - (T) Section 23-69-137, management and exclusive agency contracts;
 - (U) Section 23-69-139, assessment of stockholders or members;
 - (V) Sections 23-69-151 - 23-69-154, voluntary dissolution;
 - (W) Section 23-69-156, extinguishment of unused corporate charters;
- (13) Section 23-68-101 et seq., rehabilitation and liquidation;

(14) Section 23-62-205, reinsurance.

23-71-104. Incorporation, reincorporation, or formation prohibited.

No corporation or other entity shall be incorporated, reincorporated, or formed in this state as a stipulated premium plan insurer after January 1, 1960.

23-71-105. Reserves and nonforfeiture provisions required.

(a) Stipulated premium insurers shall be required to maintain reserves on all life insurance policies, annuity and endowment contracts, and disability insurance policies issued on and after January 1, 1968, in the following manner:

(1) Reserves on all stipulated premium life insurance policies and annuity and endowment contracts shall be established and maintained in accordance with the provisions of the standard valuation law, § 23-84-101 et seq.; and

(2) Reserves on all stipulated premium accident and health insurance policies shall be established and maintained in accordance with the provisions of § 23-63-601 et seq. as to required insurance reserves.

(b) Stipulated premium insurers shall be required to insert in all life insurance policies and annuity and endowment contracts issued on and after January 1, 1968, a provision for nonforfeiture law, § 23-81-201 et seq.

23-71-107. Articles of incorporation and capital stock.

The articles of incorporation and paid-up capital stock of a stipulated premium plan insurer shall be the same as required of it under laws in force immediately prior to January 1, 1960.

23-71-108. New insurers.

No insurer shall transact insurance on the stipulated premium plan in this state unless it lawfully had authority to transact the insurance on January 1, 1960.

23-71-109. Insuring powers.

On the stipulated premium plan, an insurer may insure the lives of individuals and may provide for indemnity against death or disability of the insured occasioned by sickness or accident.

23-71-110. Guaranty fund deposit.

(a)(1)(A) Every insurer shall have deposited and maintain on deposit with the Insurance Commissioner acceptable securities in amounts based upon the amount of the insurer's admitted assets as of December 31 of the preceding calendar year as follows:

(i) \$000,001 to \$250,000 - \$50,000 minimum deposit;

(ii) \$250,001 to \$500,000 - \$75,000 minimum deposit;

- (iii) \$500,001 to \$1,000,000 - \$100,000 minimum deposit;
- (iv) Over \$1,000,000 - \$150,000 minimum deposit.
- (B) The commissioner shall have the discretion to require deposits in excess of those enumerated if such a deposit is in the best interest of the public and the insurer's policyholders.
- (2) This deposit shall be known as the "guaranty fund" and shall be held for the purpose of guaranteeing the payment of any final judgment rendered against the insurer on any claim arising under any of its contracts of insurance.
- (3) If the insurer fails to pay the judgment, the commissioner shall pay the judgment from the insurer's deposit and for that purpose may liquidate at current market value any securities so deposited.
- (b) Upon applying the deposit or any part thereof necessary to pay any judgment, the commissioner shall so notify the insurer, requiring the insurer to fully replenish and restore the deposit to the amount previously required, as well as any additional amounts the commissioner may require, within sixty (60) days after date of notice. If the deposit is not so restored within sixty (60) days, the commissioner shall revoke the certificate of authority until the insurer is fully in compliance with this chapter.
- (c)(1) The guaranty fund deposit shall not be a part of the insurer's capital stock. Commencing on and after January 1, 2002, it shall be a part of its surplus or undivided profits and shall be considered an asset and be a part of the insurance fund of the insurer.
- (2) The commissioner may allow domestic insurers to augment their surplus or undivided profits over a period of up to five (5) years from August 13, 2001, to achieve compliance with the minimum amounts required in subsection (a) of this section, if immediate compliance with this section would cause the domestic insurer to be impaired or insolvent or in hazardous financial condition.
- (d)(1) When an insurer desires to relinquish its business in this state, the commissioner, on application of the insurer under oath of its president or principal officer and secretary or actuary, shall publish notice of such an intention at least one (1) time a week for four (4) consecutive weeks in a newspaper of general circulation published at the state capital.
- (2)(A) If, after the publication, the commissioner is satisfied that all debts and liabilities of every kind of the insurer are paid or provided for, the commissioner shall deliver up to the insurer the securities or funds held by the commissioner belonging to the insurer.
- (B) No relinquishment shall be effectuated until after the insurer has bulk reinsured in another authorized insurer or has otherwise properly terminated with advance written notice all its insurance in force, after approval of its plan by the commissioner.

23-71-111. Policies - Liability.

- (a) Every policy issued by a stipulated premium plan insurer in this state shall specify the sum of money which it promises to pay upon each contingency insured against and the time of payment after satisfactory proof of the happening of the contingency.
- (b) Unless the contract has been voided by fraud or breach of its conditions and warranties, the insurer shall be obligated to the insured for payment at the times specified of the amount due under the policy.

23-71-112. Benefits not subject to attachment.

The money or other benefit, charity, relief, or aid to be paid, provided, or rendered by an insurer authorized to do business under this chapter shall not be liable to attachment or other process and shall not be seized, taken, appropriated, or applied by any legal or equitable process, by operation of law, to pay any debt or liability of a policy or certificate holder or of any beneficiary named in the policy or certificate.

23-71-113. Insolvency.

(a) From and after January 1, 1968, the capital of a stipulated premium plan insurer shall be deemed to be impaired and the insurer shall be deemed to be insolvent when the insurer is not possessed of assets equal to all liabilities including the reserves set forth in § 23-71-105(a) together with its total issued and outstanding capital stock.

(b)(1) If the Insurance Commissioner finds a stipulated premium plan insurer to be insolvent, the commissioner shall notify the insurer of the insolvency, stating the amount thereof and allowing the insurer a reasonable period of not less than sixty (60) days in which to cure the insolvency.

(2) If the insurer fails to cure the insolvency within the period so allowed by the commissioner, then the commissioner shall immediately revoke its certificate of authority and institute proceedings for the liquidation of the insurer under §§ 23-68-101 - 23-68-113 and 23-68-115 - 23-68-132.

23-71-114. Personal liability.

No officer, director, stockholder, or employee shall, as such, be personally liable for the losses or liability of any stipulated premium plan insurer.

23-71-115. Merger, consolidation, or adoption of plan of exchange.

(a) A stipulated premium plan insurer may merge or consolidate into another stipulated premium plan insurer or into a stock insurer authorized to transact insurance in this state, or it may adopt a plan of exchange of the outstanding stock of its stockholders in accordance with the procedures prescribed by §§ 23-69-142 - 23-69-148.

(b) A mutual assessment insurer may merge into a stipulated premium plan insurer under § 23-72-119.

23-71-116. Conversion to legal reserve insurer.

A stipulated premium plan insurer may be converted to a legal reserve stock life and accident and health insurer subject to the following conditions:

(1) The insurer's articles of incorporation shall be amended to provide for transaction of insurance on a legal reserve basis;

(2) When first so converted, the insurer shall have paid-in capital stock of at least twenty-five thousand dollars (\$25,000) and surplus funds of at least twelve thousand five hundred dollars (\$12,500). At the end of the fifth calendar year next succeeding the calendar year in which the insurer was converted, its paid-in capital stock shall be not less

than thirty-seven thousand five hundred dollars (\$37,500). At the end of the tenth and subsequent calendar years next succeeding the calendar year in which the insurer was so converted, its paid-up capital stock shall be not less than fifty thousand dollars (\$50,000);

(3) The insurer shall write no new business on the stipulated premium plan following the date of conversion;

(4) Stipulated premium plan business in force on the date of conversion may continue in force on the same plan. However, the insurer shall maintain separate accounts of its stipulated premium plan business and its legal reserve business;

(5) The maximum single risk retained by the insurer after conversion shall not exceed five percent (5%) of the insurer's paid-in capital stock until the paid-in capital stock amounts to one hundred thousand dollars (\$100,000) or more; and

(6) After conversion the insurer shall otherwise have the same powers and obligations as like legal reserve insurers under the Arkansas Insurance Code.